

MONTANA CHEMICAL DEPENDENCY CENTER POLICY AND PROCEDURE MANUAL

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| Policy Subject: Leave Time | |
| Policy Number: PRP 19 | Standards/Statutes: ARM 37.27.121 : MOM 3-0305;3-0310;3-0312;3-0315;3-0320;3-0321;3-0322;3-0325;3-0330;3-0335;3-0340;3-0220 |
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PURPOSE: To define the types of leave available to employees

POLICY: Employees are entitled, as defined by their status, to all leave benefits described in the Montana Operations Manual (MOM) and Montana Code Annotated (MCA) for state employees. For the purposes of this policy, leave details are defined in a general context. Due to the complexity of leave rules, the reader is referred to the Montana Operations Manual (MOM) in the Personnel Office for complete details.

PROCEDURE: Vacation Leave Eligibility and Accrual

- I. All employees serving in positions that are permanent, intermittent, job-share or seasonal are eligible to earn vacation leave credits.
- II. An employee must be continuously employed for the qualifying period of six (6) calendar months to be eligible to use vacation leave.
- III. Annual vacation leave credits accrue from the first day of employment.
- IV. Leave credits may not be advanced nor may leave be taken retroactively.
- V. An employee may not accrue annual vacation leave credits while in a leave without pay status.
- VI. Vacation leave credits will not accrue for those hours exceeding forty (40) hours in a workweek that are paid as overtime hours or are recorded as compensatory time hours.
- VII. Vacation leave credits for full time and part time employees serving in permanent and seasonal positions are earned at a yearly rate calculated as follows:
- VIII. 1 day through 10 years of employment earns 15 working days vacation credit per year at the rate of

4.62 hours per 80-hour pay period.

IX. 10 years through 15 years of employment earns 18 working days vacation credit per year at the rate of 5.54 hours per 80-hour pay period.

X. 15 years through 20 years of employment earns 21 working days vacation credit per year at the rate of 6.46 hours per 80-hour pay period.

XI. 20 years plus years of employment earns 24 working days vacation credit per year at the rate of 7.38 hours per 80-hour pay period.

XII. Vacation leave credits for other than full time, permanent employees are earned at a pro-rated rate (see MOM 3-0305).

XIII. All full time and part time employees serving in permanent and seasonal positions may accumulate two (2) times the total number of annual leave credits they are eligible to earn per year, according to the rate earned schedule.

XIV. Excess vacation leave credits will be forfeited unless the employee uses the credits within ninety (90) calendar days from the last day of the calendar year in which the excess credits were earned.

A. At the time of termination of employment, employees who have no forfeiture requirements are entitled to a lump sum payout of unused vacation leave which is based on the employee's salary rate at the time of termination.

XV. Sick Leave Eligibility and Accrual

XVI. All employees serving in positions that are permanent, temporary, seasonal, part-time, job share and intermittent are eligible to earn sick leave credits.

XVII. Sick leave credits accrue from the first day of employment,

XVIII. An employee must be continuously employed for the qualifying period of ninety (90) calendar days to use sick leave.

XIX. Sick leave may not be advanced nor may it be used retroactively.

XX. Hours in a pay status paid at the regular rate will be used to calculate leave accrual. Sick leave credits will not accrue for those hours exceeding forty (40) hours in a workweek that are paid as overtime hours or are recorded as compensatory hours.

A. Sick leave credits are earned at the rate of twelve (12) working days for each year of service

for full time employees and prorated for part time employees.

XXI. If an employee is regularly scheduled to work eighty (80) hours or more in a BI-weekly period:

A. The employee accrues 3.69 hours of sick leave credits per pay period; and

B. The sick leave credits are to be rounded to two digits beyond the decimal point and carried in the employee's account in that configuration.

XXII. If an employee is regularly scheduled to work less than eighty (80) hours in a BI-weekly pay period or works intermittently:

XXIII. the employee accrues .046 hours of sick leave credits for each hour worked; and

XXIV. the sick leave credits are to be rounded to two digits beyond the decimal point and carried in the employee's account in that configuration.

XXV. Sick leave credits are earned at the end of each BI-weekly pay period. These sick leave credits may not be used until the start of the next BI-weekly pay period.

XXVI. There is no restriction on the number of hours of sick leave credits that may be accumulated, nor the number of accrued sick leave credits that may be used for a bona fide employee illness or disability, provided that the qualifying period has been completed.

XXVII. An employee may use sick leave credits for:

A. illness;

B. injury;

C. medical disability;

D. maternity related disability, including prenatal care, birth, miscarriage, abortion, or other medical care for either employee or child;

E. parental leave as provided in ARM 2.21.1001 through 2.21.1010;

F. quarantine resulting from exposure to contagious disease;

G. medical, dental or eye examination or treatment;

H. necessary care of, or attendance to, an immediate family member, or at the discretion of the

Administrator, another relative, for the above reasons until other attendance can reasonably be obtained; and death or funeral attendance for an immediate family member or, at the discretion of the Administrator, for another person.

XXVIII. Immediate family means the employee's spouse and any member of the employee's household, or any parent, child, grandparent, grandchild or corresponding in-law.

XXIX. The Administrator or employee's immediate supervisor may require medical verification/certification of sick leave charged against any sick leave credits. A licensed practitioner competent to treat and diagnose the particular illness or condition must provide by a licensed physician or, at the discretion of the Administrator, the medical certification.

XXX. Provisions of the federal Family and Medical Leave Act and the Americans with Disabilities Act of 1990 each place limitations on the kinds of information, which may be sought when medical certification is required. The information required should be job related and consistent with business necessity. It may indicate a need for the leave, length of the leave and the timing of the leave. Seeking more information than necessary to verify the leave request may violate the ADA. You may not inquire into the possible future effects of an employee's serious health condition, as that term is defined in the FMLA, during the certification process.

XXXI. Abuse of sick leave is defined as misrepresentation of the actual reason for charging absence to sick leave and is cause for dismissal and forfeiture of the lump-sum payment.

A. Chronic, persistent or patterned use of sick leave may be subject to progressive disciplinary action;

B. Absences improperly charged to sick leave may, at the discretion of the Administrator, be charged to available compensatory time or leave without pay. Annual leave may be used at the mutual agreement of the employee and the Administrator;

C. Any charges of sick leave abuse that result in an employee's dismissal and forfeiture of the lump-sum payment are subject to the appropriate grievance procedure.

D. Employees may participate in the state sick leave fund which is a pool established to accumulate and disburse voluntarily and irrevocably contributed accrued personal sick leave to participating employees; the complete details of which are contained in MOM 3-0311.

E. Parental Leave

F. A reasonable leave of absence, not to exceed fifteen (15)

G. working days, which may be requested if an employee is

H. adopting a child or the employee is the birth father.

XXXII. Parental leave may include the use of sick leave, annual leave, compensatory time and leave without pay. It does not have an additional or separate category of paid or unpaid leave.

Complete details of parental leave are contained in MOM 3-0312.

A. Disability and Maternity Leave

XXXIII. Maternity leave is any leave of absence granted to or required of an employee because of such employee's disability due to pregnancy.

XXXIV. Maternity leave may be paid or unpaid leave of absence.

XXXV. Disability leave is any illness, injury or other condition, which prevents an employee from performing some or all of the duties of their position. It may be the result of a short-term illness or injury, pregnancy or childbirth, or industrial accident. Disability also includes that which is provided in 49-2-101 and 49-3-101 MCA.

A. Complete details of disability and maternity leave are contained in MOM 3-0315.

B. Disaster and Emergency Leave

XXXVI. Paid time off that is not charged to an employee's accrued leave or compensatory time for an employee affected by a disaster or emergency as declared by the governor under the authority in 10-3-302 and 303 MCA.

A. Employees are allowed to take accrued annual vacation leave, compensatory time or leave of absence without pay to deal with personal emergencies or to provide volunteer service during a disaster or emergency, which does not personally effect the employee.

B. The Administrator shall determine on a case-by-case basis:

C. Whether or not an employee is affected by a declared disaster or emergency; and

D. the period of time for which the employee should receive paid time off under this section.

E. Complete details of disaster and emergency leave are contained in MOM 3-0320.

F. Military Leave

XXXVII. Military leave is a leave of absence with pay, up to fifteen (15) working days in any calendar year,

to attend regular encampments, training cruises and similar active duty training programs of the organized militia of the state or of the military forces of the United States to eligible and qualified employees.

XXXVIII. Military leave is not charged to the employee's annual vacation time.

XXXIX. Employees who have not completed the qualifying period are not eligible for military leave, however, may take leave without pay to attend encampments, cruises or other similar training.

XL. Employees must present to the Administrator appropriate military orders for consideration of military leave.

A. Complete details of military leave are contained in MOM 3-0321.

B. Jury Duty and Witness Leave

XLI. Jury duty is approved leave of absence, with pay, for an employee who has been properly summoned to serve as a juror in a court or judicial proceeding.

XLII. Witness leave means a leave of absence, with pay, for an employee who has been properly subpoenaed to serve as a witness in a court, judicial proceeding or administrative proceeding.

XLIII. Employees on authorized jury duty or witness leave will receive their normal gross salary or wage.

XLIV. The employee shall collect fees and allowances payable as a result of serving on jury duty or as a witness and forward the fees to the payroll department within three (3) days of receiving the fees.

A. Expense or mileage allowance paid by the court shall be retained by the employee if the employee is using their own personal vehicle.

B. Employees who choose to charge their jury duty or witness time against their annual leave or compensatory time may also keep all juror or witness fees paid by the court.

C. Employees must complete a leave request form and furnish a copy of the summons or subpoena with the leave request form.

D. Complete details of jury duty and witness leave are contained in MOM 3-0322.

XLV. Leave Without Pay

XLVI. Employees are eligible to apply for leave of absence without pay.

XLVII. Leave without pay is a period of unpaid absence from employment requested by an employee and approved at the discretion of the Administrator.

A. All requests for leave without pay must be submitted to the Administrator.

- B. The authorization and the extent of a leave of absence without pay is at the discretion of the Administrator.
- C. An employee may be placed in a disciplinary suspension without pay.
- D. Complete details of leave without pay are contained in MOM 3-0330.

Revisions:

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